

REMARKS

Claims 47-72 are pending in this application.

Applicants wish to thank Examiner Ramirez and Examiner Prouty for the helpful and courteous discussion with their undersigned Representative on February 23, 2005. During the discussion the remaining grounds of objection/rejection were discussed. In addition, during the discussion the Examiner indicated that, in view of the withdrawal of the Restriction Requirement, Applicants may present new method claims. The content of this discussion is reflected in the amendments and remarks herein.

Further, Applicants wish to thank Examiner Ramirez for the indication that previously pending Claims 24 (pyruvate dehydrogenase), 28 (-35 sequence TTGTCA), 30 (-35 sequence TTGCCA), 35, 36, and 43 are allowable (page 6 of the Office Action dated September 7, 2005). Reconsideration of the outstanding objections/rejections is requested.

The rejections of Claims 20-23, 25-26, 29, 31-34, 37-42, and 44-46 under 35 U.S.C. §103(a) over: (a) Bormann et al; (b) Eikmanns et al (1994); (c) Nakamura et al; and (d) Eikmanns et al (1995), each in view of Lewin et al, are obviated by amendment.

Applicants make no statement in regard to the propriety of these grounds of rejection and in no way acquiesce to the same. Therefore, Applicants request that the cancellation of the rejected claims be without prejudice toward their presentation in an ensuing continuation application.

Consistent with the Examiner's recognition that the non-consensus sequences at about position -35 from the transcription start site and/or at about position -10 from the transcription start site in conjunction with the genes listed in the pending claims are allowable,

Applicants have limited the claims thereto. Specifically, Applicants have canceled the previously pending claims and inserted therefor new method claims in which the genetic construct contains at least one non-consensus sequence at about -35 or -10 from the transcription start site for a glutamic acid biosynthesizing gene located on a chromosome of a coryneform bacterium and the enzyme encoded by the glutamic acid biosynthesizing gene is one of glutamate dehydrogenase, citrate synthase, isocitrate dehydrogenase, pyruvate dehydrogenase, and aconitase.

Applicants submit that the presently claimed method is neither disclosed nor suggested by the art of record. Moreover, the linchpin references in the Examiner's rejection, which is relied upon for the consensus sequences, is absolutely silent with respect to any specific mutations to the sequence at about -35 or -10 from the transcription start site or the advantages flowing therefrom.

In view of the foregoing, Applicants request withdrawal of these grounds of rejection.

The objection to Claims 20-26 and 28-38 is obviated by amendment.

Claims 20-26 and 28-38 have been canceled and have been represented in a form free of the Examiner's criticisms. Therefore, this objection is believed to now be moot.

Applicants request withdrawal of this ground of objection.

Applicants submit that the present application is now in condition for allowance.

Early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Stephen G. Baxter  
Attorney of Record  
Registration No. 32,884

Vincent K. Shier, Ph.D.  
Registration No. 50,552

Customer Number

**22850**

Tel: (703) 413-3000  
Fax: (703) 413-2220  
(OSMMN 08/03)  
SGB:VKS